

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

YOVANNY DOMINGUEZ, *individually and  
on behalf of himself and other persons  
similarly situated,*

Plaintiff,

-against-

HALLMARK RETAIL, LLC,

Defendant.

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1:19-cv-11165 (MKV)

ORDER OF DISMISSAL

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff Yovanny Dominguez filed this action against Defendant Hallmark Retail, LLC asserting claims under the Americans with Disabilities Act, the New York State Human Rights Law, and the New York City Human Rights Law [ECF No. 1, 16]. Dominguez and other visually impaired plaintiffs filed a number of substantially identical actions against stores and restaurants for failing to carry braille gift cards. *See Calcano v. Swarovski N. Am. Ltd.*, No. 20-1552, 2022 WL 1788305, at \*1 (2d Cir. June 2, 2022); *see also Dominguez v. Pizza Hut of Am., LLC*, No. 19-cv-10175 (MKV), 2020 WL 3639977, at \*4 (S.D.N.Y. July 6, 2020) (dismissing for lack of standing). Hallmark filed a motion to dismiss this case for lack of standing and failure to state a claim [ECF No. 17, 18, 21]. The Court administratively terminated that motion and stayed this case pending the resolution of an appeal arising from the dismissals of five similar cases [ECF No. 22].

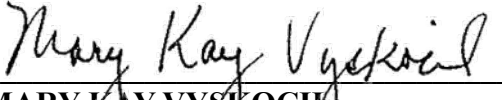
On June 2, 2022, the Second Circuit affirmed those dismissals in *Calcano v. Swarovski N. Am. Ltd.*, 2022 WL 1788305, at \*1. The Second Circuit explained that the “conclusory, boilerplate allegations” in the five “nearly identical complaints” failed to establish standing. *Id.* Dominguez’s

pleading in this case, the First Amended Complaint [ECF No. 16], is substantially identical to the complaints that the Second Circuit held failed to establish standing.

The Court has an independent “obligation . . . to inquire as to subject matter jurisdiction” and to dismiss *sua sponte* where the Court lacks such jurisdiction. *See Da Silva v. Kinsho Int’l Corp.*, 229 F.3d 358, 361–62 (2d Cir. 2000). Accordingly, IT IS HEREBY ORDERED that this case is DISMISSED without prejudice for lack of standing. Dominguez may file a second amended complaint within fifteen days. If he does not timely file a second amended complaint, this case will be dismissed with prejudice.

**SO ORDERED**

**Dated: June 7, 2022**  
**New York, New York**

  
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**MARY KAY VYSKOCIL**  
**UNITED STATES DISTRICT JUDGE**